

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MARQUISE LOUIS DRUMWRIGHT,

Plaintiff,

v.

C. HUCKLEBERRY, et al.,

Defendants.

Case No.: 1:22-cv-01410 JLT SKO (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
CERTAIN CLAIMS AND DEFENDANT
HUCKLEBERRY**

(Doc. 14)

Marquise Louis Drumwright seeks to hold Sergeant Huckleberry and Correctional Officer Gomez liable for civil rights violations pursuant to 42 U.S.C. § 1983. The assigned magistrate judge screened the allegations of the complaint pursuant 28 U.S.C. § 1915A(a), and found Plaintiff stated cognizable claims against Gomez for failure to protect, excessive force, and retaliation. However, the magistrate judge found Plaintiff failed to state a claim against Defendant Huckleberry and the remaining claims were not cognizable. (Doc. 11.) In response to the Screening Order, Plaintiff filed notice that he did not wish to file an amended complaint, and was willing to proceed only on the claims found cognizable. (Doc. 12.)

The magistrate judge recommended C. Huckleberry be dismissed from this action, and that the action proceed on the identified claims against Gomez. (Doc. 14.) The magistrate judge also recommended the remaining claims be dismissed. (*Id.* at 2.) The Court served the Findings and Recommendations on Plaintiff and notified him that any objections were due within 14 days.

1 (*Id.*) The Court also advised Plaintiff that the “failure to file objections within the specified time
2 may result in waiver of his rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839
3 (9th Cir. 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) No objections have
4 been filed, and the time to do so has expired.

5 Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this case.
6 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations to
7 be supported by the record and proper analysis. Accordingly, the Court **ORDERS**:

- 8 1. The Findings and Recommendations issued on July 25, 2023 (Doc. 14) are
9 **ADOPTED** in full.
- 10 2. Defendant C. Huckleberry is **DISMISSED** from this action.
- 11 3. This action **PROCEEDS** only on the claims the following claims against
12 Defendant Gomez: Eighth Amendment failure to protect claim (claim one), Eighth
13 Amendment excessive force claim (claim two), and the First Amendment
14 retaliation claim (claim three).
- 15 4. Any remaining claims in Plaintiff’s complaint are **DISMISSED**.
- 16 5. The matter is referred to the magistrate judge for further proceedings.

17
18 IT IS SO ORDERED.

19 Dated: **August 20, 2023**


UNITED STATES DISTRICT JUDGE